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Staff Reporter

The Supreme Court has indicated, in a case from Florida, a further restriction on electronic eavesdropping by law-enforcement officers.

The Florida case began six years ago this month when special agents of the State Sheriff's Bureau went to an apartment house in Jacksonville.

The officers believed that in apartment 607 two men were carrying on a gambling operation.

With the consent of the building manager, the agents went to the apartment directly above that of the suspects.

There they removed a grill from an airshaft and lowered a microphone, suspending it opposite the grill in 607.

Upstairs, the hidden police used electronic equipment to overhear conversations between William H. Cross and Floyd L. Cullins.

With the evidence thus obtained the officers got a warrant, entered the suspects' apartment, searched it, arrested the pair and obtained lottery convictions.

Unable to overturn the convictions in the state courts, Cross and Cullins turned to the Federal Courts. Last February, the Court of Appeals for the Fifth Circuit held that the prohibitions of the Fourth Amendment to the Federal Constitution against unreasonable searches invalidated the electronically obtained evidence as a basis for getting the warrant.

The Appellate Court remanded the case to the District Court. In the meantime, the two men became legal paupers.

The State of Florida asked the Supreme Court to review the decision of the Court of Appeals. Involved in its request was a decision handed down by the Supreme Court three years ago in the case of Julius Silverman.

Silverman lived in a row house here. Police went to the adjoining house and inserted a foot-long spike into the common wall, making it contact a heating duct in Silverman's dwelling. Attached to the spike were a microphone, an amplifier, a

power pack and earphones.

With the evidence thus obtained, police obtained a gambling conviction. The Supreme Court set it aside. The Court ruled that evidence obtained by electronic eavesdropping is inadmissible if there has been an unauthorized physical invasion of the premises, under circumstances such as to violate the Fourth Amendment.

The Court of Appeals saw no meaningful legal distinction between the spike-mike driven into the wall in Washington and the microphone dangling freely in the ventilating shaft in Jacksonville.

In its brief to the Supreme

Court, Florida argued that there was a world of difference. In Jacksonville, it contended, the apartment had been neither invaded or penetrated. Although the ventilating shaft was wholly inside the apartment, it served many apartments. The State said the shaft was not the property of the tenants, but was used in common, like a fire escape.

On Oct. 12, without comment, as is customary, the Supreme Court refused to grant review. The effect was to let stand a ruling tightening the restrictions on electronic snooping.

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## Electronic Eavesdropping Receives New Setback From Supreme Court